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EXAMINER

LY, NGHI H

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/804,171
Filing Date: March 12, 2001
Appellant(s): WALLER ET AL.

Michael Chan
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/10/06 appealing from the Office action mailed 11/09/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

A. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 5, 7-9, 11-13, 15-28, 31 and 33-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chern et al (US 6,381,465) in view of Yurkovic (US 6,668,353) and further in view of Tsuda (US 6,233,094).

Regarding claim 1, Chern teaches a method of accessing information on an information network accessible by a mobile communications device (see Abstract), the method comprising: determining a location of the device (column 6, lines 21-23, see "based on the handset location"), and supplying visual information (column 5, lines 53-

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58, see "*The information maybe displayed on the handset*" and column 3, lines 59-60, see "*a display for displaying relevant information*") to a user appropriate to the location of the device from a collection of information stored on the information network (see column 6, lines 44-47), various elements of the collection of information being associates with specific location (see column 6, lines 21-23, see "*based on handset location*" and column 5, lines 56-58).

Chern does not specifically disclose monitoring the location of the device as the location of the device changes, and automatically retrieving the visual information supplied to the user as the location of the device change so that new elements of the collection of information associate with locations in proximity to the location of the device are supplied to the user as the location of the device change.

Yurkovic teaches monitoring the location of the device as the location of the device changes (see column 5, lines 19-28), and automatically retrieving the visual information (see column 5, lines 29-39, see "display") supplied to the user as the location of the device change so that new elements of the collection of information associate with locations in proximity to the location of the device are supplied to the user as the location of the device change (see column 5, lines 19-28, see "*automatically*").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Yurkovic into the system of Chern so that a mobile user will be automatically be presented with continuously

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updated information as the user's current location changes (also Yurkovic, see column 5, lines 19-28).

The combination of Chern and Yurkovic does not specifically disclose determining an orientation of the device, supplying visual information to a user appropriate to the orientation of the device, and automatically retrieving and displaying new visual information to the user as the orientation of the device change so that new elements of the collection of information associated with locations in proximity to the location of the device are supplied to the user as the orientation of the device change.

Tsuda teaches determining an orientation of the device (see column 9, lines 2-16 and lines 45-57, and see fig.3, telescope with antenna for wireless communication. Tsuda's "*telescope*" reads on applicant's "*a mobile communication device*" since Tsuda's "*telescopes*" can move around *and* communicate with each other), supplying visual information to a user appropriate to the orientation of the device, and automatically retrieving and displaying new visual information (see column 5, lines 39-45, see "*automatically and alternatively displayed*") to the user as the orientation of the device change so that new elements of the collection of information associated with locations in proximity to the location of the device are supplied to the user as the orientation of the device change (column 5, lines 51-54, see "*the distance and azimuth angle of the binocular 200 relative to the binocular 100*", column 6, lines 50-54, see "*azimuth angle*" and "*in the direction from North, East, South, West*". In addition, column 8, lines 44-45, see "*in the field of view of each binocular* (or in the direction of the other user), *the user can read out those information with viewing the other user*". In

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order for one binocular in view (or *in the field of view*) of the another binocular, the another binocular need to adjust its orientation and Tsuda's "*in the field of view of each binocular*" reads on Applicant's "*accordance with that orientation*").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 2, the combination of Chern and Yurkovic teaches claim 1. The combination of Chern and Yurkovic does not specifically disclose determination of the orientation of the device includes determination of a geographic orientation of the device.

Tsuda teaches determination of the orientation of the device includes determination of a geographic orientation of the device (column 5, lines 51-54, see "*the distance and azimuth angle of the binocular 200 relative to the binocular 100*", column 6, lines 50-54, see "*azimuth angle*" and "*in the direction from North, East, South, West*". In addition, column 8, lines 44-45, see "*in the field of view of each binocular* (or in the direction of the other user), *the user can read out those information with viewing the other user*". In order for one binocular in view (or *in the field of view*) of the another binocular, the another binocular need to adjust its orientation and Tsuda's "*in the field of view of each binocular*" reads on Applicant's "*accordance with that orientation*").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern

and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 5, Chern further teaches the location of the device is determined by a GPS or by triangulation from terrestrial transmitters (see fig.4, GPS 304).

Regarding claim 7, the combination of Chern and Yurkovic teaches claim 1. The combination of Chern and Yurkovic does not specifically disclose the orientation of the device is further determined about a horizontal axis.

Tsuda teaches the orientation of the device is further determined about a horizontal axis (Tsuda, column 3, lines 11-25, see "altitude").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 8, Chern further teaches the device determines its own location and/or orientations or is programmed accordingly by the user or by the network, and tailors information requested from the network accordingly (column 6, lines 21-23, see "based on the handset location").

Regarding claim 9, Chern further the device looks up stored addresses of information resources, selects resource addresses appropriate to the location and/or orientation of the device, and requests access via the network to information resources at the selected addresses (see column 9, lines 46-50).

Regarding claim 11, the combination of Chern and Yurkovic teaches the method of claims 1 and 26. The combination of Chern and Yurkovic does not specifically disclose the subject is viewed simultaneously with a display of the device that supplies information relating to the subject.

Tsuda teaches the subject is viewed simultaneously with a display of the device that supplies information relating to the subject (see column 8, lines 32-45, see *"displayed on the terminal display unit 11"*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 12, Chern further teaches grouping information on the network into channels relating to respective user requirements at a location and selecting among those channels to supply information in accordance with the respective user requirement at that location (see column 16, lines 26-31 and column 6, lines 21-23, see *"based on the handset location"*).

Regarding claim 13, Chern further teaches comprising supplying audio information to the user (see 4, lines 29-35).

Regarding claim 15, the combination of Chern and Yurkovic teaches the method of claims 1 and 26. The combination of Chern and Yurkovic does not specifically disclose the user views a subject such as a building, an object or an attraction and simultaneously receives information relating to the subject from the device.

Tsuda teaches the user views a subject such as a building, an object or an attraction and simultaneously receives information relating to the subject from the device (see Tsuda, column 8, lines 32-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 16, claim 16 is rejected with a similar reason as set forth in claim 11 above.

Regarding claim 17, the combination of Chern and Yurkovic teaches the method of claims 1 and 26. The combination of Chern and Yurkovic does not specifically disclose the subject is viewed through the display

Tsuda teaches the subject is viewed through the display (see column 8, lines 32-45, see "*displayed on the terminal display unit 11*").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 18, claim 18 is rejected with a similar reason as set forth in claim 15 above.

Regarding claim 19, the combination of Chern and Yurkovic teaches the method of claims 1 and 26. The combination of Chern and Yurkovic does not specifically

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disclose the subject is the physical environment visible through the display and wherein the information relating to the subject is a virtual object apparently placed in or otherwise associated with the physical environment at the location of the device.

Tsuda teaches the subject is the physical environment visible through the display and wherein the information relating to the subject is a virtual object apparently placed in or otherwise associated with the physical environment at the location of the device (see Tsuda, column 8, lines 32-45).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Tsuda into the system of Chern and Yurkovic so that the user can read out those information with viewing of other user (see Tsuda, column 8, lines 32-45).

Regarding claim 20, the combination of Chern, Yurkovic and Tsuda teaches claims 18 and 19 instead of the virtual object is a virtual terminal for the provision of a service or information, such as an ATM. However, using the virtual object is a virtual terminal for the provision of a service or information, such as an ATM is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination as claimed, in order to improve the virtual object is a virtual terminal for the provision of a service or information, such as an ATM as claimed.

Regarding claim 21, the combination of Chern, Yurkovic and Tsuda teaches claims 18 and 19 instead of the virtual object is a marker that can be activated to access

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an information deposit. However, using the virtual object is a marker that can be activated to access an information deposit is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination as claimed, in order to improve the virtual object is a marker that can be activated to access an information deposit as claimed.

Regarding claim 22, the combination of Chern, Yurkovic and Tsuda teaches claims 18 and 19 instead of the deposited information is uploaded from a mobile communications device to the network. However, using the deposited information is uploaded from a mobile communications device to the network is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination as claimed, in order to improve the deposited information is uploaded from a mobile communications device to the network as claimed.

Regarding claim 23, the combination of Chern, Yurkovic and Tsuda teaches claims 18 and 19 instead of the deposited information is uploaded by another user as claimed. However, using the deposited information is uploaded by another user is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination as claimed, in order to improve the deposited information is uploaded by another user as claimed.

Regarding claim 24, Chern further teaches the supplied information comprises an advertisement (see column 6, lines 26-34).

Regarding claim 25, Chern further teaches the network comprises the Internet or an intranet (see column 8, lines 26-30), and wherein the information is held at URLs being the addresses of information resources on the network (see column 11, lines 37-41).

Regarding claim 26, claim 26 is rejected with a similar reason as set forth in claim 1 above.

Regarding claim 27, claim 27 is rejected with a similar reason as set forth in claim 2 above.

Regarding claim 28, Chern further teaches determining location of the device includes means for cooperating with a GPS or by triangulation terrestrial transmitters to determine location of the device (see fig.4, GPS 304).

Regarding claim 31, claim 31 is rejected with a similar reason as set forth in claim 7 above.

Regarding claim 33, Chern further teaches the location and/or orientation of the device is determined either internally or by programming by the user or by the network, and information requested from the network is tailored accordingly (see column 6, lines 21-23).

Regarding claim 34, Chern further teaches the location of the device is determined independently of the device and wherein the network supplies to the device

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information held at selected resource addresses appropriate to the location of the device (see column 6, lines 21-23 and column 9, lines 46-50).

Regarding claim 35, claim 35 is rejected with a similar reason as set forth in claim 34 above.

Regarding claim 36, claim 36 is rejected with a similar reason as set forth in claim 34 above.

Regarding claim 37, claim 37 is rejected with a similar reason as set forth in claim 12 above.

Regarding claim 38, claim 38 is rejected with a similar reason as set forth in claim 11 above.

Regarding claim 39, claim 39 is rejected with a similar reason as set forth in claim 15 above.

Regarding claim 40, claim 40 is rejected with a similar reason as set forth in claim 19 above.

Regarding claim 41, the combination of Chern, Yurkovic and Tsuda teaches claim 40 instead of accessing a deposit of information marked by the virtual object is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination as claimed, in order to improve accessing a deposit of information marked by the virtual object as claimed.

Regarding claim 42, the combination of Chern, Yurkovic and Tsuda teaches claim 40 instead of uploading the deposited information to the network is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination as claimed, in order to improve uploading the deposited information to the network as claimed.

B. Claims 3, 4, 10, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chern et al (US 6,381,465) in view of Yurkovic (US 6,668,353) and Tsuda (US 6,233,094) and further in view of Kikinis et al (US 6,389,290).

Regarding claim 3, the combination of Chern, Yurkovic and Tsuda teaches claim 1. The combination of Chern, Yurkovic and Tsuda does not specifically disclose the orientation is determined about a vertical axis.

Kikinis teaches the orientation is determined about a vertical axis (see fig.2 box 51, number 5 and column 5, lines 41-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kikinis into the system of Chern, Yurkovic and Tsuda so that user can receive additional direction information.

Regarding claim 4, claim 4 is rejected with a similar reason as set forth in claim 3 above.

Regarding claim 10, Chern further teaches the location of the device is determined independently of the device and wherein the network supplies to the device

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information held at selected resource addresses appropriate to the location of the device (see column 6, lines 21-23 and column 9, lines 46-50).

Regarding claim 29, the combination of Chern, Yurkovic and Tsuda teaches claim 27. The combination of Chern, Yurkovic and Tsuda does not specifically disclose the orientation is determined about a vertical axis.

Kikinis teaches the orientation is determined about a vertical axis (see fig.2 box 51 number 5 and column 5, lines 41-61).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kikinis into the system of Chern, Yurkovic and Tsuda so that user can receive additional direction information.

Regarding claim 30, the combination of Chern, Yurkovic and Tsuda teaches claims 26, 27 and 29. The combination of Chern, Yurkovic and Tsuda does not specifically disclose an electronic compass.

Kikinis further teaches an electronic compass (see fig.2).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Kikinis into the system of Chern, Yurkovic and Tsuda so that user can receive additional direction information.

C. Claims 6 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chern et al (US 6,381,465) in view of Yurkovic (US 6,668,353) and Tsuda (US 6,233,094) and further in view of Kikinis et al (US 6,389,290) and Hashimoto (US 6,338,020).

Regarding claim 6, the combination of Chern, Yurkovic, Tsuda and Kikinis teaches claim 1. The combination of Chern, Yurkovic, Tsuda and Kikinis teaches does not specifically disclose the location and/or orientation of the device is further determined by measuring acceleration of the device.

Hashimoto teaches the location and/or orientation of the device is further determined by measuring acceleration of the device (see column 1, lines 40-56 and see column 3, lines 3-11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Hashimoto into the system of Chern, Yukovic, Tsuda and Kikinis so that the position can be obtained from the detected direction and speed data (see Hashimoto, column 3, lines 3-11).

Regarding claim 32, claim 32 is rejected with a similar reason as set forth in claim 6 above.

(10) Response to Argument

Applicant's arguments filed 09/01/05 have been fully considered but they are not persuasive.

On page 5 of Appellant's argument, Appellant argues that Tsuda does not teach "provide information in accordance with that orientation" *and* Tsuda's information does not depend on the orientation or position of the mobile communication device.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

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(i.e., “provide information in accordance with that orientation” of the mobile communication device) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In this case, Applicant’s claims merely recite “retrieving and displaying new information to the user as the location and orientation of the device change”. The claims **does not** recite “*in accordance*” or “*depend on*” the mobile communication device.

In addition, Tsuda does indeed teach “provide information in accordance with that orientation” and “information does depend on the orientation” of the mobile communication device (column 5, lines 51-54, see “the distance and azimuth angle of the binocular 200 relative to the binocular 100”, and column 8, lines 44-45, see “in the field of view of each binocular, the user can read out those information with viewing the other user”. In order for one binocular in view (or in the field of view) of the another binocular, the another binocular need to adjust its orientation and Tsuda’s “in the field of view of each binocular” or “azimuth angle” reads on Applicant’s “*in accordance with that orientation*” or “information does depend on the orientation” of the mobile communication device).

Furthermore, Tsuda’s “telescope” reads on Applicant’s “a mobile communication device” since Tsuda’s telescopes can move around and communicate with each other (see Tsuda, column 9, lines 2-16 and lines 45-57, and see fig.3, telescope with antenna for wireless communication).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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